# FINAL REPORT of the LEGISLATIVE STRUCTURE AND PROCESS STUDY TASK FORCE

### INTRODUCTION

The New Mexico Legislative Council created the Legislative Structure and Process Study

Task Force to develop recommendations to help the legislature conduct its work and perform its

duties more effectively. This report summarizes the task force's deliberations and contains its

recommendations.

The task force appreciates the legislature's willingness for introspection and its desire to improve a process that has evolved and served this country and state well for hundreds of years. Under our system of government, the legislative, executive and judicial branches can only be truly coequal if each performs as effectively as possible. The task force believes the legislative branch in New Mexico can more effectively perform its important policymaking and oversight duties, and it recommends the implementation of a number of reforms to help the legislature do that.

The New Mexico legislative process has changed dramatically over the last several decades, so much so that an active participant of the 1980s might not recognize parts of it today. Some changes have been both deliberate and undeniably beneficial — such as the changes to the capital outlay process — while others seem to be the result of nothing more than the gradual, unplanned evolution of the legislative process and have diminished the legislature's effectiveness.

Some of the changes are tangible and can be measured, such as the increase in the number of bills, resolutions and memorials introduced and considered each year, and the increase in the number and the membership size of committees that meet between legislative sessions. Others are not as easily measured, such as the sense that interim committee work is less relevant to session work than it was years ago. A related change, and one that tends to erode public

confidence, is that the process has become more difficult to navigate for the uninitiated. It is increasingly common for committee meetings to vary widely from the published schedule, leaving constituents waiting for a postponed meeting. The public and legislators alike increasingly complain that hurried decisions on legislation are made without fully comprehending the policy changes, which may increase the likelihood of making mistakes or a loss of transparency in the legislative process.

The cumulative effect of these and other changes is that the legislature is not as effective as it could be in deliberating the key issues of the day, in making policy based on those deliberations and in overseeing the affairs of government.

The task force is aware of the competing demands, stresses and strains on the legislative process, some of which tend to foster, and others that tend to hinder, the legislature's effectiveness. The task force's recommendations seek to preserve the essential and defining characteristic of New Mexico's part-time, citizen legislature — in which members are drawn from a variety of backgrounds for limited periods of time to set the state's policy — while reforming those parts of the structure and process that hinder the legislature's ability to deliberate effectively and set state policy.

Implementation of the task force's recommendations range from amending the constitution, statutes and the legislature's rules to working to change the "legislative culture". The task force recognizes that none of these recommendations is necessarily easier to implement than any other. Beyond the problems of implementation, some people will disagree with the substance of some of the recommendations. The task force urges the legislature, the governor and the public to consider each one seriously and favorably.

### **METHODOLOGY**

The task force sought and reached consensus throughout its deliberations and in making its recommendations. Little, if any, of the debate and deliberation among the task force fell along partisan lines.

The task force spent much of the first year of its operation gathering history, background and information about the current state of affairs in the New Mexico Legislature and in other states. Legislators, former legislators, legislative staff, executive branch staff, lobbyists and other observers of the legislative process were surveyed on their views of the challenges facing the legislature and were solicited for ideas that could improve the legislature's effectiveness. The National Conference of State Legislatures, which conducted the survey and compiled and presented the results, also provided expert assistance in how other state legislatures address issues facing New Mexico's legislature. The task force also benefited from the efforts and recommendations of previous study groups, including the Constitutional Revision Commission of 1995, the Committee Process Study Subcommittee of 2002 and the New Mexico First Town Hall on the Structure of Government in New Mexico of 1994.

Before considering specific recommendations, the task force participated in a two-day meeting in late 2006 facilitated by New Mexico First, in which challenges were identified and specific reforms were offered. More than three dozen reforms were identified for further review during this brainstorming session.

During its second year, the task force delved into the challenges and reforms it identified during its first year by dividing the issues and potential reforms into seven areas: session

workload, session time management, interim structure, legislative-executive relations, member relations, public information and constituent relations.

### TASK FORCE GOAL

The goal driving the task force's discussions was to help the legislature become more deliberative, effective and accessible to the public. The task force believes that each recommendation helps achieve that goal. The task force specifically did not adopt the notion that the legislature should be more *efficient*, recognizing that while some of the recommended reforms may result in efficiencies, the goal was to increase legislative *effectiveness*.

### RECOMMENDATIONS

The task force determined that most of its recommendations dovetail with each other and believes the greatest and most beneficial impact will result if each is viewed as an integral part of a whole and so implemented. However, the task force also recognizes the reality that some recommendations will have more support than others, and it sought to ensure that as many recommendations as possible could be implemented independently. The task force urges the legislature to consider these recommendations at its earliest opportunity and suggests that convening an extraordinary session to do so may allow the legislature to focus more directly on the proposals.

More than 20 distinct proposals are embodied in legislation, the drafts of which are attached to this report, and six more that do not lend themselves to legislation are recommended as policy changes. For ease of discussion, the recommendations are categorized here by those

affecting session workload and schedule, interim structure and relations with the executive and the public, although they are not grouped in that manner in the legislation.

### Session Workload and Schedule

The task force heard testimony about the increasing workload during regular sessions, including a 50 percent increase in the amount of legislation introduced since 1999 and a doubling since 2001 of the amount of duplicate or virtually duplicate legislation introduced. The task force believes that this increasingly burdensome workload, combined with New Mexico's limited sessions, hinders the ability of the legislature to deliberate fully and thoughtfully all aspects of the myriad issues before it.

The task force believes that greater deliberation can be fostered by reducing the legislative session workload, while being mindful of each legislator's right and responsibility to advocate on behalf of New Mexicans and to pursue important initiatives. The task force believes this balance can best be achieved by encouraging members to file legislation before the session convenes and limiting the number of bills and memorials introduced once the session starts, making it easier for members of each house to cosponsor legislation with the goal of discouraging the introduction of duplicate legislation, limiting the ability of committees to advance legislation without making a recommendation on the merits of that legislation and prohibiting the introduction of memorials that request state agencies to act.

The task force also recommends revamping the time frame within which the legislature performs its work. The task force heard testimony about the relative brevity of New Mexico's legislative sessions and the benefit of internal deadlines to the legislative process in other states. The task force believes that greater deliberation can be fostered by lengthening legislative

sessions from 30 days to 45 days in even-numbered years and from 60 days to 75 days in odd-numbered years; building in an automatic recess each session during which committees could meet or members could meet with constituents but no floor sessions would be held; shortening the time period within which most legislation must be introduced; establishing a deadline for legislation to pass its house of origin; and limiting the introduction of guests during floor sessions. Additionally, the task force recommends extending from 20 to 30 days the amount of time the governor has to act on legislation following adjournment of a session.

# **Interim Structure**

The task force heard testimony on the growing demands during the interim, including a doubling of the number of interim committees since 1979 and a threefold increase in the number of committees with 10 or more voting members. The task force recognizes the educational value of interim committee work, but believes the increased demands of the interim dilutes the legislature's ability to make policy effectively by spreading the legislature's attention too broadly.

The task force believes the legislature's interim work could be made more valuable, especially to the work of the subsequent legislative session, with a dramatic restructuring. Specifically, the task force recommends that the number of interim committees be limited to no more than 12, including the Legislative Finance Committee and the Legislative Education Study Committee; that the directors of the legislature's three permanent committee staffs — the Legislative Council Service, Legislative Education Study Committee and Legislative Finance Committee — work each interim to propose to the legislative leadership a plan to staff the interim committees jointly in such a way that maximizes the expertise and service provided to each committee; and that the Legislative Council be mindful of the need to make House and

Senate membership on interim committees proportional to each chamber's overall membership.

The task force also recommends that the Legislative Council expand its newly adopted policy allowing members to be reimbursed for attending meetings of committees to which they have not been appointed, while sharply limiting the appointment of advisory members to committees by restricting those positions only to members who are also voting members of the council.

The implementation of this recommendation does not require any specific legislation other than the repeal of the statutes creating several interim committees. The task force, therefore, details its recommendations more specifically here. Interim committees should be created every two years based primarily upon the passage of either an omnibus bill or a memorial creating or requesting the creation of the committees. The legislation should include the beginnings of a work plan for each interim committee and provisions regarding a meeting schedule and membership. The Legislative Council should retain the ability to create committees as it believes necessary upon its own motion, but no more than 12 interim committees should be created, exclusive of the Legislative Council, Legislative Committee on Compacts and the Interim Legislative Ethics Committee. This is equal to the number of substantive standing committees in the House of Representatives, and the task force believes that if 12 committees are adequate during the session to deal with the myriad issues presented, that number should be adequate during the interim.

The task force recognizes that it may appear difficult to consolidate more than 20 interim committees into 12. By way of example, it suggests that during the 2007 interim, the same issues addressed by the various interim committees could have been addressed by 11 committees, as shown in the following realignment:

# Issues addressed by the...

Force

- Legislative Finance Committee; Investments and Pensions Oversight Committee; and Tobacco Settlement Revenue Oversight Committee
- Could have been addressed by the...
- Legislative Finance Committee

- Revenue Stabilization and Tax Policy
- Committee
- New Mexico Finance Authority Oversight Committee: Capital Outlay Subcommittee; and Public School Capital Outlay Oversight Task
- Revenue Stabilization and Tax Policy Committee
- Capital Outlay and Infrastructure Committee
- Economic and Rural Development Committee; and Mortgage Finance Authority Act Oversight Committee
- Business and Economic Development Committee
- Legislative Education Study Committee; Funding Formula Study Task Force; and Public School Capital Outlay Oversight Task Force
- Legislative Education Study Committee;
- Legislative Health and Human Services Committee
- Legislative Health and Human Services Committee;
- Legislative Health Committee
- Welfare Reform Oversight Committee; and Mortgage Finance Authority Act Oversight Committee
- Legislative Human Services Committee
- Courts, Corrections and Justice Committee; Land Grant Committee; and **Ethics Subcommittee**
- Courts, Corrections and Justice Committee

- Information Technology and Telecommunications Oversight Committee; and Los Alamos National Laboratory Oversight Committee
- Indian Affairs Committee
- Radioactive and Hazardous Materials
   Committee;
   Water and Natural Resources Committee;
   and
   Los Alamos National Laboratory
   Oversight Committee

- Science and Technology Committee
- Indian Affairs Committee
- Environment and Natural Resources
  Committee

# Relations with the Executive and the Public

Much of the legislative process involves the legislature's relationships with the executive branch, individual members' constituents and the general public. The task force believes the effectiveness of the legislature's relationships with each of these could be improved.

The task force studied the legislature's history of overriding vetoes and its oversight role of the executive branch. The task force believes that under the current structure, an imbalance of power exists between the executive and legislative branches. Virtually no vetoes are overridden, even vetoes of bills that passed with little or no opposition, and the partial veto authority of the executive branch too often results in a distortion of legislative intent. For those reasons, the task force recommends instituting veto override sessions after each session, unless a super-majority of either chamber decides against it, during which the legislature would consider those bills vetoed by the governor; and the task force recommends limiting the governor's authority to veto legislation partially to those items of appropriation within legislation. The task force also recommends strengthening the legislature's ability to oversee the executive branch by providing the Legislative Council with subpoena power and by codifying the Legislative Finance Committee's ability to conduct program evaluations and receive confidential material.

Many task force members are personally aware of the difficulty that members of the public encounter when attempting to follow the legislative process, from finding a place to park to knowing how specific proposals are being amended. The legislative branch is the branch of government that is already most accessible to the public, but more should be done to make it even more so.

The task force recommends that the legislature open conference committees to the public and require that conference committee reports be publicly available at least 30 minutes before a vote to adopt a conference committee report is taken. The task force also recommends that the legislature make every effort to ensure that committees start on time, that more public parking be made available close to the

State Capitol and that more information about the legislative process and legislation that is being heard be made available more quickly and more widely through the use of technology.

Finally, common sense dictates that the men and women who make the financial sacrifice and commitment to serve as New Mexico legislators be fairly compensated for their service. The task force recognizes the inherent conflict in allowing legislators to set their own compensation and the benefits that stem from ensuring that legislators have sources of income other than their public service. For these reasons, the task force recommends the creation of a legislative compensation commission to determine no more often than once every 10 years the compensation to be paid to New Mexico legislators. As an alternative, the task force also recommends increasing the per diem paid to legislators when they travel to more expensive, out-of-state cities.

### **Substantive Task Force Recommendations**

# Session Workload and Schedule

- 1. Lengthen 30- and 60-day legislative sessions to 45 and 75 days, respectively.
- 2. Lengthen the governor's "bill-signing period" from 20 days to 30 days, post-adjournment.
- 3. Shorten the bill introduction period by one-third.
- 4. Prohibit memorials that request state agencies to act.
- 5. Establish deadlines for legislation to pass in the house of origin.
- 6. Provide for three- and six-day recesses in short and long sessions, respectively.
- 7. Prohibit committees from reporting legislation "without recommendation".
- 8. Expand opportunities for members to cosponsor legislation.
- 9. Establish a deadline to introduce memorials.
- 10. Limit the number of bills and memorials introduced.
- 11. Expand the ability to prefile legislation in the House of Representatives.
- 12. Give priority to prefiled legislation in the Senate.
- 13. Discourage the introduction of guests and performances on the floor.
- 14. Ensure that committee hearings convene as scheduled.

### Interim Structure

15. Reconfigure the interim committee structure by limiting the number of interim committees to 12, reducing the number of advisory members appointed to interim committees, coordinating staffing needs among the permanent staffs, respecting the different sizes of the houses and increasing the number of days members may be reimbursed for attending meetings of committees to which they are not appointed.

# Relations with the Executive and Public

- 16. Convene a veto override session after every session unless three-fifths of the members of either house decides against it.
- 17. Limit partial veto authority to items of appropriation.
- 18. Create a legislative compensation commission or, alternatively, increase reimbursement rate for out-of-state travel.
- 19. Codify the Legislative Finance Committee's program evaluation function.
- 20. Codify the Legislative Finance Committee's ability to receive confidential material.
- 21. Grant the Legislative Council the authority to issue subpoenas.
- 22. Open conference committees to the public.
- 23. Require conference committee reports to be available 30 minutes prior to a vote.
- 24. Expand new-member orientation to a couple of two-day sessions.
- 25. Develop a primer for citizen participation in the legislative process.
- 26. Use technology to make the legislative process more accessible to the public, including more timely and accurate notices of hearings and broad dissemination of legislative proceedings.
- 27. Provide more public parking near the State Capitol.